

November 9, 2020

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Via www.foiaonline.gov

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Region 2 Freedom of Information Officer
United States Environmental Protection Agency
Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866

**Re: 2020.11.09 - Freedom of Information Act Request re: Newark Bay Study Area
Baseline Ecological Risk Assessment**

To Whom It May Concern:

We submit this document request pursuant to the Freedom of Information Act, 5 U.S.C. § 552 et seq, *as amended* ("FOIA"). This request concerns the United States Environmental Protection Agency's ("EPA") files concerning documents related to the Newark Bay Study Area, Operable Unit 3 of the Diamond Alkali Superfund Site which includes Newark Bay and portions of the Hackensack River, Arthur Kill, and Kill Van Kull (collectively the "NBSA"). More specifically, we request information related to the NBSA Baseline Ecological Risk Assessment ("BERA") for the NBSA.

By way of background, the NBSA BERA was prepared by Glenn Springs Holdings, Inc. ("GSH") on behalf of Occidental Chemical Corporation, pursuant to the NBSA Administrative Order on Consent, as amended ("NBSA AOC"), under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA Index 02-2004-2010; USEPA 2004a). GSH submitted the final NBSA BERA on July 30, 2020. On August 19, 2020, EPA approved the final NBSA BERA.

This FOIA request seeks documents relating to the approach, methods, and assumptions utilized by GSH and EPA for the selection of contaminants of concern ("COCs") and risk drivers for the NBSA BERA. More specifically, we request the following information relating to the NBSA BERA:

- Draft BERA submissions to EPA, from EPA's receipt of the first Draft BERA submission through and including EPA's final BERA approval;

- EPA comments to GSH BERA submissions, from EPA's comments on GSH's first Draft BERA submission through and including EPA's final BERA approval;
- GSH responses to EPA BERA comments, from GSH's responses to EPA's first Draft BERA comments through and including EPA's final BERA approval;
- Documents related to EPA's selected risk drivers for the NBSA BERA, including documents that explain why the benthic COC list is longer than other NBSA receptors;
- Documents related to background determination of selected COCs and risk drivers for the NBSA BERA, in particular the Jamaica Bay benthic metric/chemistry data (Long Island, New York); and
- Documentation of numerical values for the multivariate benthic analysis relating to selection of NBSA COCs and risk drivers.

Please note that this request is sufficiently specific and narrow. This request is not meant to exclude any other records that, although not specially requested, are reasonably related to the subject matter of this request which are contained in the EPA's files. If EPA has destroyed or determines to withhold any records that could be reasonably construed to be responsive to this request, we ask that you indicate this fact and the reasons therefore in the response.

In the interest of efficiency, we request a rolling production of responsive records as processed, produced and released to www.foiaonline.gov. We appreciate your anticipated prompt attention in obtaining a determination of the requested records. As mandated by FOIA, we anticipate a reply within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i). Please provide a complete reply as expeditiously as possible. Should EPA find this request to be unclear, or if the responsive records are voluminous, please e-mail me at robert.lagravenis@klgates.com or telephone me at (973) 848-4029 to further clarify and discuss the scope of this request.

Very Truly Yours,

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